



Antibribery Programs and Transparency in International Organizations

Section 6 (a) (8) of the IAFCA directs that the report to Congress contain an assessment of antibribery programs and transparency with respect to each of the international organizations covered by the IAFCA. Over eighty organizations fall within the IAFCA's purview. They include large institutions, such as the World Bank, International Monetary Fund (IMF) and the World Trade Organization (WTO), as well as smaller and less well-known technical bodies.

Under the Convention, any official or agent of a public international organization is considered a "foreign public official" and thus must be covered by a legal prohibition against bribery. Since the FCPA did not include officials of public international organizations in its definition of a "foreign official," the United States needed to amend the FCPA to bring it into conformity with the Convention. The amendment, embodied in the IAFCA, applies this provision to all public international organizations designated by executive order under Section 1 of the International Organizations Immunities Act (22 U.S.C. 288) (IOIA) and to any other international organization designated by the President by executive order for the purposes of the FCPA.

This first report to Congress focuses on several major international organizations that have the potential to affect international bribery on a large scale through their policies and activities. International financial institutions,

including the IMF, the World Bank and regional development banks, are particularly important because they extend financial assistance or fund commercial contracts amounting to billions of dollars annually in countries around the world. They need to take particular care to guard against bribery and corruption in the countries where they operate. We have included the WTO, the United Nations, the Organization of American States (OAS), and the OECD for special attention this year because of their work in promoting international antibribery initiatives and encouraging national governments to strengthen relevant domestic laws. In light of Section 5 of the IAFCA, we have also examined the policies on bribery and transparency of INTELSAT and the International Telecommunications Union (ITU) since their operations can have a significant impact on competition in satellite communication services.

As a matter of policy, the United States seeks to encourage all public international organizations to maintain high standards of ethics, transparency and good business practices in their operations. The greater attention given to international bribery issues over the past several years, in the OECD and other forums, has helped to promote positive change in many organizations. In future reports, we will include an assessment of additional international organizations. For those major international organizations for which our focus this year was on exter-

nal activities to promote antibribery and anticorruption initiatives, we will also examine issues related to their internal policies and programs to promote transparency and prevent corruption.

International Telecommunications Organizations

INTELSAT

This section of the report addresses the request for information on antibribery programs and transparency with respect to the International Telecommunications Satellite Organization (INTELSAT) as an international organization covered by the IAFCA. Chapter 10 assesses the advantages in terms of immunities, market access, or otherwise of INTELSAT as an international satellite organization described in Section 5 of the IAFCA. Overall, we find that INTELSAT has the requisite tools in place to address antibribery and transparency issues in its policies and programs.

INTELSAT is structured under the terms of the Agreement Relating to the International Telecommunications Satellite Organization (“INTELSAT agreement”) to have four organs. These include the Assembly of Parties, the principal organ of INTELSAT composed of all INTELSAT parties (national member governments); the Meeting of Signatories, composed of all signatories (designated by each party to invest in and participate in the commercial operations of INTELSAT); the Board of Governors; and the INTELSAT Management, the executive organ which handles the day-to-day business operations of the organization and which is most closely supervised by the Board of Governors. The discussion below focuses on the Board of Governors and the INTELSAT Management, as these two organs have virtually all responsibility for the organization’s business decisions and transactions (subject to ultimate oversight by the parties).

Decisionmaking in the Board of Governors

Most of INTELSAT’s major business decisions are made within the INTELSAT Board of Governors. The Board is typically composed of just over twenty-five members representing signatories with relatively greater investment shares in the organization and groupings of a number of signatories with smaller investments. Mechanisms exist within the INTELSAT agreement also to promote representation of each of the geographic regions defined by the Plenipotentiary Conference of the International Telecommunication Union (Montreux, 1965). As of March

1999, the Board was composed of twenty-eight members representing in total approximately 110 INTELSAT signatories.¹

Decisions by the Board are generally made on the basis of consensus, without calling for a vote. When votes are determined to be necessary for a decision on a substantive question, voting generally is weighted according to the investment share in INTELSAT represented by each Board member (at least four Governors having at least two-thirds of the total voting share).² Thus, the U.S. signatory, Comsat, with the largest investment share in INTELSAT (approximately 19.8 percent as of March 1, 1999),³ also has the largest proportional voting share within the Board of Governors.

In addition, Article X(b)(i) of the INTELSAT agreement provides that the Board of Governors is required to “give due and proper consideration to resolutions, recommendations, and views addressed to it by the Assembly of Parties or the Meeting of Signatories.” This provides a mechanism for parties and signatories to oversee or otherwise affect the actions of the Board of Governors and, in doing so, the operations of the organization. Moreover, the U.S. government, and increasingly other governments, send representatives to the Board meetings accredited as part of their signatory delegations. (The U.S. representatives are present as part of the U.S. government “instructional process” created pursuant to statute and executive order to provide policy guidance to Comsat for its participation in the meeting.)

INTELSAT Provisions Regarding Procurement

The procurement of telecommunications satellites and related assets are among INTELSAT’s largest business transactions. The Board of Governors adopts procurement procedures, regulations, terms and conditions consistent with the INTELSAT agreement. It reviews and approves individual major procurements and any substantive deviations from INTELSAT’s standard terms and conditions that are considered significant departures from INTELSAT practice, or which raise significant policy issues. These procurement decisions, and decisions on more minor procurement matters, are carried out by the INTELSAT Management.

INTELSAT’s Administrative Policies and Procedures Manual (ADM), which sets forth the official policy of the INTELSAT Management, includes a particular section addressing inappropriate conduct in the procurement process. It provides detailed guidelines for procurement and the reporting of any concerns or inappropriate actions on the part of proposers or staff during or prior to the procurement process. Moreover, the INTELSAT agreement establishes a process under

which, in general, the award of INTELSAT procurement contracts is based on responses to open international invitations to tender, and is made to bidders offering the best combination of quality, price, and the most favorable delivery time.

In certain exceptional circumstances, the INTELSAT Board of Governors may decide to procure goods and services other than on the basis of responses to open international invitations to tender. Exceptions can be made when the estimated value of the contract does not exceed a certain dollar value determined by the Meeting of Signatories or when other particular circumstances described in Article 16 of the operating agreement exist. Article 16 provides for exceptions

... where procurement is required urgently to meet an emergency situation involving the operational viability of the INTELSAT space segment; where the requirement is of a predominantly administrative nature best suited to local procurement; and where there is only one source of supply to a specification which is necessary to meet the requirements of INTELSAT or where the sources of supply are so severely restricted in number that it would be neither feasible nor in the best interest of INTELSAT to incur the expenditure and time involved in open international tender, provided that where there is more than one source they will all have the opportunity to bid on an equal basis.

Policy on Conflicts of Interest and Contributions

INTELSAT established in 1991 (and revised in 1997) a Statement of INTELSAT on Conflicts of Interest and Contributions. This policy, adopted by the Board of Governors and enshrined in the ADM, applies to all INTELSAT staff, including staff on regular, fixed-term, part-time, or temporary appointments. The policy specifically addresses the potential for improper payments, contributions, or other transactions and establishes a policy under which INTELSAT employees may not pay or offer any monies, gratuities, or favors from INTELSAT funds to government officials or personnel of any country or to any individual or organization. Contributions may not be made from INTELSAT funds to any political party, politician, or candidate for public office of any country. Gifts from INTELSAT funds of greater than a nominal value must be properly documented and approved by the director general and CEO or an officer designated by him. Cash gifts may not be accepted by INTELSAT employees. The policy establishes clear

guidelines for handling nonmonetary gifts and the review of any gifts of greater than nominal value by the general counsel and the director general and CEO.

The policy includes an annual reporting requirement for all employees, requiring all employees to certify annually in writing that they have reviewed the policy and that they have been and are complying with it in all respects. The director general and chief executive officer then reports to the Board of Governors his determinations of any actual or potential conflict of interest reported, based on written recommendations by the vice president and general counsel. The Board generally reviews these determinations at its December quarterly meeting.

INTELSAT Audit Procedures

In 1987, a fraudulent and corrupt scheme involving the construction of INTELSAT's then-new headquarters building was uncovered by INTELSAT employees. The matter was reported to INTELSAT's external auditors and the chairman of the INTELSAT Board of Governors. The chairman immediately suspended, and the Board subsequently removed from office, the two involved INTELSAT officers: the director general (an American citizen) and the deputy director general (a Venezuelan citizen). The immunities of both of these officers were waived by INTELSAT and both were ultimately convicted in U.S. courts of criminal behavior. INTELSAT has instituted civil actions against the two individuals in an effort to collect damages from them. This incident led to the creation of additional audit mechanisms and oversight. These are detailed below.

There are three separate vehicles for INTELSAT activities and/or records to be audited on a regular basis. First, INTELSAT has an Internal Audit Department to serve an independent appraisal function. The Audit Department has been given broad authority to review INTELSAT activities and records and to provide analyses, recommendations, and other comments to the Management following its review. Second, the INTELSAT Board of Governors has established an Audit Committee of the Board, to help ensure the soundness of INTELSAT's financial administration, audit, and reporting process. Finally, Article 12 of the INTELSAT operating agreement provides that "The accounts of INTELSAT shall be audited annually by independent auditors appointed by the Board of Governors. Any signatory shall have the right of inspection of INTELSAT accounts." In recent years, Arthur Andersen LLP (and previously KPMG Peat Marwick LLP) audited the balance sheet and related financial statements of INTELSAT.⁴

International Telecommunication Union

The International Telecommunication Union (ITU) facilitates cooperation among member states (some 180 countries) on the improvement and rational use of international telecommunications of all kinds. The ITU also encourages participation of other organizations and private sector entities in the activities of the ITU and promotes their cooperation with member states to advance ITU goals.

The ITU's decisionmaking process is essentially transparent and open to review and oversight by all member states. ITU members consider the views of governments, private sector entities and other organizations when undertaking activities that result in regulations, procedures and recommendations on the operation of telecommunication systems and services. ITU staff serve as the secretariat for ITU meetings and have responsibility for the coordination and publication of telecommunication service data needed for operation of services. Important decisions, however, are made by the member states themselves, not by the secretariat.

Members states of the ITU meet approximately every four years at a plenipotentiary conference. At this conference, members elect the secretary general, the deputy secretary general, and three sector directors (director of radiocommunication, director of telecommunication standardization and director of development). The plenipotentiary also elects a council which meets annually and a part-time radio regulations board. The council is responsible for overseeing the ITU's activities between conferences. World radiocommunication conferences occur every two to three years to revise the radio regulations, which allocate global frequencies and establish procedures for countries to assign frequencies and orbit positions. Adoption of radio regulations are made in a transparent manner by a consensus of the member states.

Member states, private sector entities, and other interested organizations participate in the work of each ITU sector. The Telecommunication Standardization Sector studies technical, operating, and tariff questions and issues recommendations. Issues of particular concern to developing countries are studied by the Development Sector. Recommendations issued by the sectors are not binding on members, but are generally recognized by governments and private sector companies as global standards for the design of equipment and services. The Radio Regulations Board approves rules of procedure used by the director and Radiocommunication Bureau in the application of radio regulations.

The secretary general and the deputy secretary general direct the general secretariat. In addition to provid-

ing staff for meetings and conferences, the secretariat makes the necessary financial and administrative arrangements and prepares materials used for a report on the policies and strategic plan of the ITU. The three sector directors administer specialized secretariats that support the work of study groups within their sector. The U.S. is generally satisfied with the services and support provided by the secretariat for ITU meetings.

International Financial Institutions

The United States has, in cooperation with other shareholder countries, aggressively pressed the international financial institutions to put in place anticorruption strategies, policies and programs. As a result, the major institutions—the International Monetary Fund, the World Bank, and the African, Asian, Inter-American, and European regional multilateral development banks—are playing a growing role in promoting good governance, transparency, and accountability. Significant progress has been achieved. Corruption is now recognized as an important international and development issue that must be addressed. The following sections, which were prepared by the Treasury Department, provide a summary of steps taken by the six major international financial institutions.

International Monetary Fund

The IMF has become increasingly active in recent years in the fight against bribery and corruption. The United States, in cooperation with IMF management, has played a leading role in bringing about the transition from a traditional view that corruption was primarily a political problem with law enforcement as its solution to current conclusions that corruption adversely affects the formulation and implementation of macroeconomic and financial policies, undermines confidence in public policies and institutions, and discourages saving, investment and economic growth.

Traditional Emphasis on Good Governance

The Fund's normal functions and priorities have always been supportive of good governance in its member countries. Its promotion of free and open markets, price decontrol, and trade and capital market liberalization have resulted in increased transparency as well as greater economic efficiency. Support for central bank independence and the end to directed credits and preferential lending have struck at the core of some corrupt practices. Encouragement of respect for contracts and privatization of state-owned firms also have contributed to good governance. The IMF has promoted transparency in govern-

mental fiscal policies and in related activities such as privatization. Where countries maintain international payments restrictions, the Fund encourages their implementation via market-related means rather than individual licensing decisions.

New Awareness of Corruption as an Economic Problem

The Fund is placing an increasingly strong emphasis on explicitly addressing governance and corruption problems and promoting good governance in the context of Fund surveillance and assistance programs. The first of two breakthroughs with regard to attitudes toward corruption in member countries came in 1996, when the Partnership for Sustainable Global Growth underscored the need for “promoting good governance in all its aspects, including by ensuring the rule of law, improving the efficiency and accountability of the public sector, and tackling corruption, as essential elements of a framework within which economies can prosper.”

The Fund’s second major step was the issuance in 1997 of guidance on the role of the Fund in governance issues. The guidance called for “a more comprehensive treatment of governance in both Article IV consultations and IMF-supported programs within the IMF’s mandate and expertise [and] a more proactive approach in advocating policies and the development of institutions and administrative systems that aim to eliminate opportunities for rent seeking, corruption and fraudulent activity.”

Analysis of Corruption’s Impact on Economic Policy and Growth

In 1996, the staff produced studies on the implications of money laundering for macroeconomic performance and the international financial system. In 1997, the staff released a paper on Corruption, Public Investment, and Growth and conducted a seminar on Corruption, Governance, and Economic Policy.

Corruption and the Asian Financial Crisis and Problems in Africa

In a major speech in January 1998, Managing Director Camdessus said that domestic corruption and the lack of transparency about underlying economic and financial conditions contributed to the Asian financial crisis. He noted that Fund economic reform programs with Korea, Thailand and Indonesia included internationally accepted auditing and accounting practices, disclosure rules, and capital adequacy standards. The IMF already in 1997 had allowed an Enhanced Structural Adjustment Fund program to lapse in Kenya (i.e., suspended finan-

cial assistance) due to concerns that corruption was interfering with Kenya’s ability to fulfill its economic policy commitments. Concerns about corruption also figured in Fund negotiations with Cameroon.

Stress on Fiscal Transparency

In April 1998, the Interim Committee of the Board of Governors of the IMF adopted a Code of Good Practices on Fiscal Transparency. Encouraging countries to bring their fiscal policies and practices up to the standards in the fiscal transparency code has become a routine aspect of IMF surveillance. The IMF is putting increased stress on governance issues as central to macroeconomic performance and plans to complete work in 1999 on a Code for Monetary and Financial Policy Transparency.

World Bank

The World Bank has been in the forefront among development banks in the fight against corruption, especially under the leadership of President James Wolfensohn. At the 1996 annual meetings of the World Bank and the IMF, President Wolfensohn highlighted the “cancer of corruption” and its devastating effect on development. He pledged to address corruption on all fronts. A Bank internal task force, the Corruption Action Plan Working Group, was charged to produce an action plan to fight corruption. In September 1997, the board-approved strategy entitled “Helping Countries Combat Corruption: The Role of the World Bank” set forth a multifaceted plan to (1) prevent fraud and corruption within Bank-financed projects, (2) help countries that request Bank assistance to reduce corruption, (3) take corruption more explicitly into account in country lending strategies and project design, and (4) increase the Bank’s cooperative support of efforts by other international organizations.

Since that time, the Bank has pressed forward on a number of fronts, including a thirty-point anticorruption action plan aimed at building on previous efforts. The action plan calls for increased candor about corruption, more focus and clarity in the Bank’s own efforts, and greater openness to new ideas and experimentation. The Bank set up a simultaneous push on several fronts: (1) assisting countries that request Bank support; (2) mainstreaming anticorruption in the Bank’s operations; (3) increasing knowledge and awareness about corruption; (4) controlling corruption in Bank-financed projects; (5) making in-house improvements; and (6) supporting international efforts and partnerships.

The IDA-12 replenishment agreement strengthens the linkage between new lending and borrower performance,

including explicit consideration of good governance and efforts to combat corruption.

Internal Staff Ethics

The Bank's Code of Professional Ethics addresses conflicts of interest, the use of Bank resources and staff accountability. To ensure that Bank staff maintain the highest professional standards, the Ethics Office has been strengthened and the Bank has moved forward to investigate alleged staff corruption. The grievance system has been revised. An Oversight Committee on Fraud and Corruption has been established to review specific instances of allegations of fraud and corruption received by any member of the Bank. A confidential telephone hotline with multilingual capabilities is available for use by bank staff and the public. Monitoring and investigations have been enhanced, including the use of outside experts, in an attempt to locate any problem areas within the Bank. To date, investigations have turned up very few cases of in-house corruption, and these have been vigorously pursued by the Bank. Remedies included lawsuits and staff dismissals.

Auditing and Procurement

Special emphasis has been placed on procurement financed by the Bank. In 1996 and 1997 the Bank took the lead among the multilateral development banks by adding specific fraud and corruption language to its rules for procurement of both goods and services and for selection and employment of consultants. The amendments require that all borrowers of Bank loans, bidders, suppliers, and contractors under Bank contracts must "observe the highest standards of ethics during the procurement and execution of contracts." The strengthened rules state that the Bank will reject award proposals if it is determined that the bidder engaged in corrupt or fraudulent practices. It will cancel any portion of a loan allocated to a contract that was involved in corrupt or fraudulent practices. Firms will be ineligible for future Bank-funded contracts if they are determined to have engaged in corrupt activities. Procurement contracts may include provisions allowing the Bank to inspect suppliers and contractors accounts and records.

In September 1997, agreement was reached on a "no-bribery undertaking," which could be included at a borrowing country's request and as part of a country's anti-corruption program, on certain Bank-financed contracts. Importantly, the Bank is developing standard bidding documents (SBDs) for specialized procurement in information technology and pharmaceuticals. SBDs have an impact far wider than IBRD-financed contracts, since Bank stan-

dard bidding documents are sometimes used by borrowing country governments for their own national public sector procurement. Disclosure of any commissions and gratuities paid in association with a bid or a contract is now included in the standard bidding documents. Additional steps will be identified through a working group of procurement officials from all of the multilateral development banks to achieve agreement on uniform "best practice" procurement documents and rules among international financial institutions.

As part of the stepped-up campaign against corruption, during the past two years, projects are being audited by independent firms hired by the Bank. As a result of these audits, the Bank has declared misprocurement on a number of contracts. Several firms and individuals have been declared ineligible to be awarded a World Bank-financed contract for specified periods or indefinitely because they were found to have violated the fraud and corruption provisions of the procurement guidelines or the consultant guidelines.

Research and Analysis

The Bank's current initiatives are rooted in part in its concerns about key influences affecting foreign direct investment and governance in developing countries. For example, in 1992 the Bank recognized corruption as a disincentive to foreign direct investment in its Guidelines on the Treatment of Foreign Direct Investment. The guidelines called upon member countries to take steps to prevent and control corrupt business practices, to promote accountability and transparency in dealings with foreign investors, and to cooperate with other countries in developing international procedures and mechanisms. In its reports on governance in 1992 and again in 1994, the Bank identified public sector management, accountability, legal frameworks, and transparency and information as areas of ongoing and future Bank work.

The Bank has become the focal point for developing innovative methods for analyzing and quantifying corruption in individual countries. The World Bank Economic Development Institute has created "diagnostic" approaches to measure and better understand the nature and scope of corruption. The analysis focuses on shortcomings in policies and institutions and contributes directly to design of strategies to improve governance. The Bank approach seeks to involve the broad participation of representatives of civil society as well as the government in the analysis and related workshops and task forces in order to develop a firm grass-roots commitment to transparency and the reform process. As of early 1999, eleven countries were engaged in serious empirical diagnostic exercises, and nearly forty

others had expressed to the World Bank an interest in pursuing such in-depth analysis as a prelude to mounting anticorruption strategies.

Assistance to Member Countries

As an increasing number of members are prepared to acknowledge and combat corruption in their countries, the Bank is undertaking to integrate anticorruption measures into its mainstream operational work through training, technical assistance and loans. The Bank has also suspended or withheld assistance to certain countries where governments resisted implementing effective anticorruption programs.

African Development Bank

Corruption is having an extremely negative impact on economic development in many African nations. Poor governance and corruption are hindering proper resource management, undermining efforts to reduce poverty and obstructing sound private sector development by discouraging both domestic and foreign private investment. The African Development Bank (AFDB) has responded to this problem and taken a leadership role in promoting good governance and combating corruption in Africa.

The AFDB is preparing a formal policy on governance that is expected to be approved in 1999. The new policy will focus on accountability, transparency, participation, and judicial reform, and will give increased attention to the roles of the productive private sector and of nongovernmental organizations, such as Transparency International and the Global Coalition for Africa. Beyond this, formal agreement was recently reached with the AFDB shareholders to take a variety of governance and corruption issues into account in all aspects of its operations, including as a basis for lending allocations.

Internal Staff Ethics

The Articles of Agreement of the AFDB mandate that the AFDB maintain control mechanisms that preclude all forms of fraud and corruption from its lending and technical assistance operations. The AFDB is committed to high standards of transparency and accountability among its own staff and is working with international agencies and both foreign and African nongovernmental organizations to eliminate corruption. Internal controls have been enhanced and will be strengthened further, for example, through specific anticorruption training.

Auditing and Procurement

The AFDB has focused especially on the importance of an efficient and competitive procurement process, both

in AFDB-financed projects and public sector procurement in member countries. In 1996, the AFDB significantly revised and improved its rules of procedure for the procurement of goods and services. It has stated that a good public procurement system should be based on the principle of open competitive bidding and a coherent and balanced regulatory framework. The AFDB requires the use of standard bidding documentation for international competitive bids and has improved procedures to ensure that procurement under AFDB projects is as transparent as possible. The AFDB has overhauled its procurement review process and Procurement Review Committee to ensure close monitoring of the manner in which contracts are awarded.

Recently, AFDB management proposed that explicit fraud and corruption language be added to the AFDB rules. These strong fraud and corruption amendments will be considered by the board this summer. The AFDB is actively participating in a working group of procurement officials from all of the international financial institutions. Additional steps, however, need to be taken through the working group of procurement officials from the multilateral development banks to achieve agreement on uniform "best practice" procurement documents and rules among international financial institutions.

Analysis and Research and Outreach

The AFDB is committed to supporting research by both national and regional research centers to study the causes and implications of corruption in African societies. The AFDB is planning to strengthen its own institutional capacity for analysis of governance issues and corruption in African member countries. In addition, the AFDB, World Bank and IMF recently established a joint institute in Abidjan which will provide a forum for more effective cooperation in analysis of the full range of Africa's economic challenges, including corruption.

The AFDB also is working to increase awareness of the negative effects of corruption and in November/December 1998 hosted an important conference on "Public Procurement Reform in Africa," which was attended by Ministers and high-level officials from thirty-two African countries. The Conference was a watershed event in opening a dialogue on public procurement to promote improvements in how public resources in Africa are managed. The Conference emphasized the need for commitment to the reform process at the highest levels of government in order to support legal, organizational and professional institutional changes.

Assistance to Member Countries

The AFDB has been taking corruption and governance into account in its country strategy papers. Now this work is being expanded as the AFDB explicitly incorporates governance into its country performance assessments and subsequent resource allocation decisions. It has focused especially on support of civil service and judicial reforms to raise the level of human resources and technical know-how of procurement and law enforcement officials and thereby improve the detection and punishment of corrupt practices. The new policy emphasis on governance is expected to link lending programs directly to commitments to formal governance efforts by the borrowing countries.

The donors' report on the eighth replenishment of the African Development Fund specifies that strong linkage will be established between country performance and resource allocations to member countries. In the future, moreover, indicative country allocations are not to be regarded as entitlements to resources. Rather, access to AFDB resources will depend on annual assessments of each country's performance. The assessments will be based on the following broad criteria: (1) macroeconomic policies, (2) structural policies, (3) policies for growth with equity and poverty reduction, and (e) governance and public sector performance.

While helping those countries seeking assistance, the AFDB also has enhanced controls over its own projects and now will consider canceling part or all of a loan or grant if the project is tainted by acts of fraud or corruption. Key countries in which the AFDB's new policy stance will be significant include Nigeria and Kenya.

Asian Development Bank

The 1998 annual report of the Asian Development Bank (ADB) stated bluntly that corruption played "a central role in weakening governance institutions that contributed to the Asian financial crisis." Corruption thus was, according to the report, "one of the key problems behind the currency turmoil, corporate bankruptcies, and falling stock markets that have plagued the region since July 1997."

In July 1998, the ADB adopted an official anticorruption policy. The policy is built around three objectives: (1) supporting competitive markets and efficient, accountable, transparent public administration; (2) supporting promising anticorruption efforts and improving the quality of the ADB's dialogue with its developing member countries on governance, including corruption issues; and (3) ensuring that the ADB's staff, projects, and programs all adhere to the highest ethical standards.

It sets forth four principles of good governance—accountability, transparency, predictability, and participation—and commits the ADB to integrating governance activities into its operations, programs, and technical assistance.

This new anticorruption policy is an extension of the ADB's formal Good Governance policy adopted in 1995. That policy represents an institutional commitment to making governance a fundamental concern and focus of ADB operations.

The ADB has set up a task force to implement the new anticorruption policy and created a specific Anti-corruption Unit within the Office of the General Auditor. It also participates with the World Bank and other regional development banks in a new Multilateral Development Bank Coordinating Committee on Governance, Corruption, and Capacity Building.

Internal Staff Ethics

The ADB recently updated and strengthened its code of conduct for staff and has issued new staff guidelines specifically regarding anticorruption issues. It also has created independent internal mechanisms to address allegations of corruption and to improve recruitment, regulations, procedures, and management. In particular, the ADB is recruiting a small core of anticorruption specialists in the areas of public sector management and institutional development. Training programs on ethics and forensic accounting have been developed. New rules have also been adopted to protect whistle blowers and require sanctions, including possible dismissal and prosecution, for staff found to be involved in fraud and other forms of corruption.

Auditing and Procurement

The ADB has undertaken to strengthen its auditing functions and has created new disbursement guidelines to ensure integrity in the administration of its projects and programs. The Office of the General Auditor conducts independent appraisals and audits of the ADB's financial, accounting, and administrative operations.

The ADB also has strengthened its procurement rules. Amendments to the rules were approved in 1998 and 1999 to add specific language on fraud and corruption, no-bribery pledges and, importantly, to require the use of ADB standard bidding documents. In the rules, the definition of corrupt practice includes the behavior of private as well as public officials. Furthermore, in contracts financed by the ADB, the contract documents must include an undertaking by the contractor that no fees, gratuities, rebates, gifts, commissions, or other payments, other than those shown in the bid, have been given or

received in connection with the procurement process or in the contract execution. Additional work is under way through the working group of procurement officials from all the multilateral development banks to achieve agreement on uniform “best practice” procurement documents and rules among international financial institutions.

Research and Analysis

The ADB’s more activist stance on corruption responds in part to new research showing that corruption has significantly reduced the performance of the Asian economies by distorting public investment, discouraging private investment, and wasting resources. The ADB has identified a variety of corrupt practices in the region. These include: illicit payments and misappropriations of funds; the outright theft and sale of posts or promotions; procurement fraud; disclosure of false financial information; extortion; abuse of judicial and tax offices; and design and selection of uneconomical projects to create opportunities for kickbacks. The ADB’s new policies are aided by efforts made now by all ADB members to prohibit the bribery of public officials.

The ADB has set as priorities to improve its understanding of the unique corruption problems in individual Asian countries, provide more effective delivery of anti-corruption assistance to ADB members, and learn from approaches to fighting corruption and establishing norms for good practices in other parts of the world.

Assistance to Member Countries

The ADB has identified six key areas of governance for special attention in its assistance to members: (1) participation, civil society, and social capital; (2) law and development; (3) the interface of the public and private sectors; (4) project and sector assistance; (5) core government functions at the national level; and (6) decentralization. The emphasis and precise form of future assistance to borrowers will vary depending on the country. Recent examples of projects already containing governance and anticorruption components are loans for financial sector reform in Indonesia, Korea, and Thailand and for corporate governance and enterprise reform in the Kyrgyz Republic. Examples of anticorruption technical assistance are capacity building in project accounting in Kazakhstan, the Kyrgyz Republic, and Uzbekistan and support for establishing the National Audit Office in Laos.

European Bank for Reconstruction And Development

The European Bank for Reconstruction and Development (EBRD) operates in Central and Eastern Europe

and the former Soviet Union. Unlike other regional banks that concentrate on assistance to developing countries, the EBRD’s borrowing members are mainly countries in transition from centrally planned to market economies. The EBRD is aware that rapid political and economic change in these countries, including large-scale privatization of state-owned companies, has created widespread opportunities for the diversion of both financial assets and exportable commodities, corruption in public works concessions, and serious economic crimes such as fraud and embezzlement.

As most of the EBRD’s projects are with the private sector, the EBRD has directed substantial effort to improving corporate governance through increased accountability, transparency and respect for the rights of minority shareholders. The financial crisis in Russia, which resulted in unauthorized stripping of assets, presented difficult challenges for EBRD staff and shareholders. As a result, the EBRD has undertaken a reevaluation of its operations and will in the future place an even greater emphasis on ensuring sound corporate governance. Greater attention will also be given to advocating adequate regulatory, supervisory, and legal frameworks by borrowing country governments to improve the investment climate and deter opportunities for fraud and corruption.

Internal Staff Ethics

The EBRD’s main internal focus has been on encouraging a culture of ethical behavior within the EBRD itself. In addition to educating staff to be aware and look out for fraud and corruption, the EBRD has also established rules and procedures for avoiding and detecting corrupt practices in EBRD-financed projects (which are predominantly private sector projects) and technical assistance.

The EBRD established a strong code of conduct to regulate the behavior of staff, which broadly defines corrupt practices and provides for close monitoring and disciplinary procedures. Recruitment is highly selective and based on full disclosure. Staff are required to file statements of compliance with the code. The receipt of gifts and honoraria is strictly controlled and illegal or improper payments are strictly forbidden. A management group consisting of the general counsel, personnel and internal audit oversees the code of conduct, with all matters ultimately going to the president of the EBRD. A code of ethical behavior for all staff dealing with external suppliers will be referred to the board for approval the summer of 1999. The EBRD is considering the creation of a fraud hotline mechanism, and explicit protection for whistle blowers.

Auditing and Procurement

To increase transparency and accountability within the EBRD there is a system of checks and balances involving an independent internal auditor, external auditor and the audit committee of the board of directors.

The EBRD routinely performs due diligence on prospective private and public sector clients. Through the due diligence process, the EBRD also checks that procurement and contracting is carried out with no conflict of interest and that purchasing methods which ensure a sound selection of goods and services at fair market prices have been applied in the best interest of the EBRD's clients. Loan and certain other agreements between the EBRD and clients typically include a number of covenants (such as compliance with international accounting standards, annual external audits of accounts, strict limits on lending to affiliated parties), supported by appropriate EBRD procedures, which further limit the opportunity for corrupt practices and money laundering or which would enable the EBRD to detect their occurrence. Among the multilateral development banks, the EBRD has developed cutting-edge approaches to due diligence on private sector operations.

The EBRD's procurement rules were strengthened in February 1998. Specific fraud and corruption language was adopted which is aimed at the procurement process as well as the execution of contracts for goods, works, and services in the areas of public sector operations, the selection of concessionaires and the selection of consultants. Moreover, the rules were amended to allow the EBRD to reserve the right to consider corruption in the context of contracts not financed by the EBRD. And, the EBRD may impose certain sanctions, including black-listing, against clients or firms found by a judicial process or other official enquiry to have engaged in corrupt or fraudulent practices. Additional steps are being explored through the working group of procurement officials from all of the multilateral development banks to achieve agreement on uniform "best practice" procurement documents and rules among international financial institutions.

Assistance to Member Countries

The EBRD helps countries to develop a legal framework that supports promotion of private sector activities and transition towards market-oriented economic policies. Through its Legal Transition Program, the EBRD has provided technical assistance on secured transactions laws, bankruptcy law, and concessions law, and developed "guidelines" on good corporate governance. Helping transition countries to create a predictable environ-

ment, based on the rule of law, will increase transparency and accountability and reduce opportunities for corruption.

Outreach

The EBRD has begun to cooperate with other national and international organizations to combat financial crimes and money laundering. In particular, the EBRD works closely with the OECD working groups on money laundering and tax evasion, as well as Europol. If there are questions on good standing of prospective clients, EBRD works with governments and private investigators to fully understand project sponsors and sources of funds.

Inter-American Development Bank

In December 1994, the Inter-American Development Bank (IDB) was given a clear mandate from hemispheric leaders at the Summit of the Americas to assist countries in combating corruption. In initial fulfillment of that mandate, the IDB created in 1996 a Task Force on Corruption and Other Financial Crimes.

A clear consensus has developed among IDB shareholders on the need for modernization and reform of the public sector and on the role of a smaller, efficient government that operates with accountability and transparency. The IDB finances activities intended to implement this consensus to reform those regulatory or institutional frameworks and aspects of government that most easily provide opportunities for public corruption and fraud.

Currently, the IDB is dealing with the issue of corruption at three levels: (1) supporting activities in member countries and in the region, (2) ensuring the IDB-funded projects and IDB staff maintain highest standards, and (3) participating in the international dialogue on corruption.

Internal Staff Ethics

The IDB has in place a code of ethics to ensure the integrity of its employees. Possible impropriety is investigated by the Office of the Auditor General in a process that ensures confidentiality, due process, and adequate protection of all parties. Additional safeguards are provided through an ethics committee, conduct review committee, and an independent investigation mechanism (a permanent roster of expert investigators). Cases of malfeasance are few but have resulted in forced terminations.

Auditing and Procurement

In January 1998, the IDB strengthened its basic procurement policies and procedures by adding specific fraud

and corruption language. Under the new policy, the IDB will reject a proposal to award a contract, declare a firm ineligible to be awarded future contracts under IDB-financed projects, and/or cancel a portion of the loan or grant. The IDB may require that bid documents include provisions that allow the IDB to audit suppliers and contractors' accounting records and financial statements pertaining to the execution of a contract. At the request of the borrowing country, a "no-bribery pledge" may be included in the bid documents. The working group of procurement officials from all of the multilateral development banks provides a good instrument to achieve agreement on uniform "best practice" procurement documents and rules among international financial institutions.

Research and Analysis

The IDB has begun to study the specific problems of corruption in Latin America. Studies on corruption in public health services and on asset laundering are under way.

In February 1998, the IDB hosted a ground-breaking seminar on Efficiency and Transparency in Public Sector Procurement, which was attended by ministers and high-level officials from many countries in Latin America and the Caribbean. The conference focused on four key procurement related areas (i.e., legal frameworks, state reform, information technology, and financial management) to promote a more open dialogue on public procurement and the fight against corruption.

Assistance to Member Countries

The IDB has provided assistance to borrowers to reform tax; customs and financial systems; modernize the public sector; define the state's role in the economy; strengthen the executive, judicial, and legislative branches; and establish appropriate regulatory and governmental supervision functions. Improvement in all of these activities serves to discourage and deter corruption.

More recently, the IDB has initiated regional projects to support implementation of the Inter-American Anti-corruption Convention and promote integrity in financial markets. Other regional anticorruption initiatives included a seminar in 1998 on international money laundering, a training program for banking regulators and banking officials, and a study for judges and prosecutors that will support training activities in prosecuting asset-laundering cases.

Much, however, still remains to be done to effectively integrate awareness of corruption and necessary counter measures into the IDB's routine analysis, evaluation, technical assistance, and country lending programs.

Major International Organizations

Organization of American States (OAS)

Over the past several years, the Organization of American States (OAS) has played an active role in the fight against bribery and corruption in the Western Hemisphere. In public statements and joint resolutions, the OAS has underscored its concerns about the negative impact of these practices on good governance, economic development and other national interests. OAS members are increasingly aware that corrupt practices thwart the process of development by diverting resources needed to improve economic and social conditions. They also recognize that corruption is an obstacle to the observance of human rights.

At the 1994 OAS General Assembly, members called for the study of measures aimed at fighting corruption, improving efficiency in the running of public affairs, and promoting transparency in the management of public funds. The General Assembly adopted the resolution on Probity and Public Ethics on June 10, 1994, establishing a working group in the OAS Permanent Council to study issues related to good governance and ethics. The Probity and Public Ethics Working Group (Probity Group) examined how national legislation was addressing these issues. It also provided a forum for discussing the control and oversight of existing administrative institutions. Following its review, the Probity Group made a checklist of crimes related to public ethics and developed recommendations on judicial mechanisms to address such crimes.

The first Summit of the Americas held in Miami in 1994 included as one of its major themes the need to address corruption. Democratically elected leaders of OAS member states issued a Summit Plan of Action, which mandated negotiation of an Inter-American Convention Against Corruption. The action plan encouraged governments to develop priorities for reform in several important areas, including transparency and accountability of government operations; oversight of government functions and related investigative and enforcement mechanisms; conflict-of-interest standards for public employees; effective deterrents to illicit enrichment; and antibribery measures. The Action Plan also endorsed development of a hemispheric approach to private and public sector corruption, including cooperation on extradition and prosecution.

The OAS General Assembly responded by adopting a resolution on June 9, 1995, which authorized two important follow-up actions. The first was for a seminar on

probity and public ethics, which was subsequently held in Uruguay in November 1995. The second was for the drafting of an Inter-American Convention Against Corruption. Negotiation of this convention came to a successful conclusion on March 29, 1996, when twenty-one countries signed the convention. Four additional countries signed on subsequent dates, including the United States, which signed on June 2, 1996. The convention entered into force on March 6, 1997. Of the twenty-five to sign the convention, sixteen countries have ratified it as of June 1999. President Clinton transmitted the convention to the Senate for advice and consent to ratification on April 1, 1998. It is still awaiting Senate approval.

The Inter-American convention was the first multilateral anticorruption treaty negotiated in the world. It covers a broad range of corrupt acts, including purely domestic corruption as well as transnational bribery. Signatories agree to enact legislation that makes it a crime for individuals to offer bribes to public officials and for public officials to solicit and accept bribes. It is, therefore, considerably broader in scope than the OECD Anti-Bribery Convention, which covers only the offering, promising or giving of bribes to foreign public officials.

In 1997, the OAS adopted the Inter-American Program for Cooperation in the Fight Against Corruption. The program called for measures which included adopting a strategy to secure prompt ratification of the convention, conducting comparative studies of legal provisions in member states, drafting codes of conduct for public officials, implementing a system of consultations with international organizations, conducting media campaigns, and formulating educational programs.

At the second Summit of the Americas held in Santiago on April 18–19, 1998, leaders stated that they would resolutely support and implement the Inter-American Program to Combat Corruption, especially the adoption of a strategy to achieve prompt ratification of the Inter-American convention by member nations. They agreed to sponsor workshops and other follow-up activities related to the convention, including a Symposium on Enhancing Probity in the Hemisphere, which was held in Chile later in 1998. They also endorsed the study of asset laundering, codes of conduct for public officials, information campaigns on the ethical values that sustain the democratic system, and other actions to promote good governance, such as legislation that obliges senior public officials to disclose personal assets and liabilities.

Summit participants agreed to encourage the approval of effective and specific measures to combat all forms of corruption, bribery, and related unlawful practices in

commercial transactions, among others. These statements and others reflect the growing interest of hemispheric leaders in fighting bribery and corruption, and strengthening transparency and accountability in government.

To assist members in implementing the convention, the Inter-American Juridical Committee of the OAS approved, in August 1998, model legislation on illicit enrichment and transnational bribery. The committee also prepared a report on the subject and a guide to the model law for legislators.

Organization for Economic Cooperation And Development

The OECD has served as a key forum for industrial countries in developing an international consensus on combating international bribery and corruption. Its membership is composed of twenty-nine countries, including most of the major trading partners of the United States. OECD members share a commitment to market-oriented policies, good governance and democratic practices. Because of these common interests, consensus for joint action has often been more practical to achieve within the OECD than within larger, more diverse international organizations.

Over the past three years, the OECD has helped to facilitate two important breakthroughs in the fight against corrupt practices. In 1996, the OECD members adopted a recommendation that all members should prohibit the tax deductibility of bribes of foreign public officials. Up until then, a majority of members had refused to consider eliminating such practices because bribes to foreign public officials were widely accepted in many parts of the world. A year later at the May 1997 Ministerial, members agreed on a recommendation to negotiate a Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, in conformity with an already agreed-upon set of common elements. These elements, with a few significant exceptions, track closely the provisions of the FCPA.

On November 21, 1997, negotiators from thirty-four countries (all twenty-nine OECD member states and Argentina, Brazil, Bulgaria, Chile, and the Slovak Republic) adopted the Convention at the OECD in Paris. It was signed on December 17, 1997. (Australia signed the Convention a year later after having completed required consultations with its parliament.) On February 15, 1999, the Convention went into effect for the twelve countries that had deposited instruments of ratification with the OECD. The OECD Working Group on Bribery is monitoring implementation of the Convention and following up on several important issues that were not included in the final text. (See Chapters 3 and 6.)

OECD support for international antibribery initiatives, however, has gone beyond negotiating the Convention and monitoring its implementation. The OECD has also undertaken a variety of outreach activities in Latin America, Asia, Eastern Europe and the former Soviet Union to assist countries in developing effective antibribery and good governance programs. A newly formed Anticorruption Unit within the Secretariat has responsibility for coordinating outreach activities. The Anticorruption Unit has created its own home page within the OECD Internet website to disseminate information about antibribery activities and the Convention.

In developing outreach programs, the Anticorruption Unit has sought to create synergy by using OECD-wide expertise and by collaborating with public and private sector groups, including the U.S. Agency for International Development (USAID), the European Union (EU), the Organization for Security and Cooperation in Europe (OSCE), and Transparency International. During 1998, the OECD helped to organize several conferences and regional events that brought together business leaders, journalists, nongovernmental organizations, and professional associations to discuss the Convention and possible measures to fight bribery and corruption. The OECD and OSCE cosponsored a Conference on National and International Approaches to Improve Integrity and Transparency in July 1998 that was attended by more than 175 representatives of governments, nongovernmental organizations, international organizations, and the private sector from thirty-five OSCE member countries. The conference, which was held in Paris, discussed how best to fight corruption, promote good governance, and strengthen civil society. Participants agreed on the importance of establishing clear laws that can be predictably enforced, instituting educational programs, and sharing information among interested countries.

The OECD and OAS collaborated on a similar event for Latin American countries in Buenos Aires in September 1998. A workshop for governments, nongovernmental organizations and the corporate sector was held to examine ways to fight bribery in international business transactions. Participants encouraged countries to ratify and implement the Inter-American Convention Against Corruption and stressed the need for interaction between governments and civil society in order to prevent corrupt practices.

In October 1998, the OECD worked with USAID to organize a workshop in Istanbul on Combating Corruption in Transition Economies. Delegates from eleven countries of the former Soviet Union, the Black Sea Economic Cooperation group, OECD member countries, and

several international organizations participated in the meeting. The group launched an informal anticorruption network for transition economies to help coordinate national and international anticorruption programs. A steering group comprised of representatives from the Soros Foundation, Transparency International, and international organizations was formed to identify network participants and encourage their participation. An Internet site is under construction that will make information on regional anticorruption efforts widely available and facilitate an electronic discussion group for network members.

The OECD's outreach program for 1999 focuses on two main areas: (1) broadening the discussion of the OECD Convention and related instruments and (2) sharing information on national, regional, and international initiatives. This strategy relies on the continuous development of partnerships among major stakeholders such as the business community, nongovernmental organizations, governments, and international organizations. In addition to organizing its own workshops, conferences, and seminars, the Anticorruption Unit is also participating in other international forums to disseminate information about the Convention and promote its objectives.

In February 1999, the OECD Anticorruption Unit cooperated with the OECD Development Center to organize a symposium in Washington on the role of the private sector in fighting corruption in developing and emerging economies. The Anticorruption Unit was also actively involved in Vice President Gore's conference on fighting corruption, which high level representatives from almost ninety countries attended in Washington on February 24–26, 1999.

The Anticorruption Unit and OECD's Public Management Service (PUMA) will support a workshop for Asian economies in the fall of 1999 to discuss bribery and corruption in the Asia-Pacific region. Other sponsors include the Asian Development Bank, UNDP, and USAID. This meeting will bring together government officials and representatives of the business community and civil society to exchange experiences on fighting bribery and corruption, discuss ways to improve integrity and transparency in government, and strengthen internal and international cooperation. The Anticorruption Unit is planning additional meetings with Central and Latin American regional organizations to discuss anticorruption issues.

In another important joint initiative, the OECD and the European Union have established the Support for Improvement in Governance and Management in Central and Eastern European Countries (SIGMA) program to help thirteen Central and East European countries re-

form public administration and strengthen the integrity of state institutions. Operating within PUMA, SIGMA counsels governments on developing a professional civil service with high standards of ethical conduct; improving independent audit and financial controls; establishing transparent, fair public procurement systems; improving the administration's service to the public and businesses; and enhancing the effectiveness of laws and regulations. SIGMA's activities support institution building and complement other European Union-backed programs aimed at preparing these countries for eventual EU membership.

The SIGMA program is also engaged in an Internet project with Transparency International to produce an up-to-date online directory of national and international anticorruption programs operating in Central and Eastern Europe. Information on the Internet site will serve as a practical reference guide for those involved in the struggle against corruption, including donors, governments, nongovernmental organizations, journalists, businesses, and trade unions. The project is intended to facilitate the exchange of information and experiences on anticorruption work and to improve donor coordination.

United Nations

As an international organization with broad membership, the United Nations has played an especially useful role in educating governments on the importance of good governance and the need for strong anticorruption programs. While UN resolutions on bribery and corruption are nonbinding, they have brought increased attention to the problem of corrupt practices and have encouraged member states to take action through national legislation and other international agreements, such as the OECD Antibribery Convention and the Inter-American Convention Against Corruption.

Over the past decade, the United Nations has developed a number of proposals for assisting member states in their efforts to address bribery and corruption. In 1989, the Development Administration Division of Technical Cooperation for Development and the Crime Prevention and Criminal Justice branch of the UN Secretariat organized an interregional seminar at The Hague in collaboration with the Ministries of Foreign Affairs and Justice of the Netherlands. Their report included an overview of national responses to corruption and of emerging concerns and practical measures as well as a set of priorities and recommendations. At the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana August 27–September 7, 1990, Resolution 7 recommended that states should revise ex-

isting legal mechanisms or devise new ones to prevent and respond adequately to all forms of corruption. In the same resolution, it requested that the Criminal Justice Branch of the UN Secretariat offer practical assistance in the areas of strategic planning, legal reforms, public administration, training of officials, and the tendering of international aid projects.

On the basis of the work and recommendations of the UN Economic and Social Commission (ECOSOC) during the period 1992–94, the issue of corruption was included in the program of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Cairo April 29–May 8, 1995. The congress devoted a special session to the subject and invited member states to improve policy development, increase the use of bilateral or multilateral cooperation agreements, and conduct more extensive research on corruption.

In a 1995 resolution adopted on the recommendation of the Commission on Crime Prevention and Criminal Justice at its fourth session, ECOSOC urged the member states to develop and implement anticorruption measures, to increase their capacity to prevent and adequately control corrupt practices, and to improve international cooperation in that field. ECOSOC also requested that the Secretary General review and expand the manual on practical measures against corruption.

On December 12, 1996, the General Assembly adopted an International Code of Conduct for Public Officials. It recommended that member states use the code as a tool to guide their efforts against corruption. Shortly thereafter, on December 16, 1996, the General Assembly adopted the United Nations Declaration against Corruption and Bribery in International Commercial Transactions. In the declaration, member states pledged to criminalize bribery of foreign public officials in an effective and coordinated manner. They also endorsed denying the tax deductibility of bribes paid by any private or public corporation or individual of a member state to any public official or elected representative of another country.

The Secretary General presented a report to the Crime Prevention and Criminal Justice Committee of ECOSOC in Vienna April 28–May 9, 1997. The report gave an overview of the problem of corruption, summarized international efforts at combating it, and recommended a more focused and systematic attack. This meeting was followed by an expert group meeting on corruption and the implementation of the declaration in Buenos Aires March 17–21, 1997. The experts submitted a report to the Crime Prevention and Criminal Justice Committee

with their conclusions and recommendations on combating corruption and implementing the International Code of Conduct.

On February 21, 1997, the UN General Assembly adopted a resolution, based on a recommendation by the ECOSOC, urging member states to take all possible measures to further implement the United Nations Declaration against Corruption and Bribery. The General Assembly also requested that the United Nations Conference on Trade and Development (UNCTAD) and other competent bodies of the United Nations system assist member states in areas relating to bribery and corruption.

One key area identified for assistance was the implementation of national programs to strengthen accountability and transparency. The UN bodies were also asked to help member states implement relevant conventions, declarations and instruments to combat corruption and bribery in international commercial transactions. The resolution welcomed the work performed by the United Nations Development Program in the field of good governance. The Secretary General was given responsibility for consulting with UNCTAD and reporting to the General Assembly on anticorruption and antibribery measures taken by member states, international and regional organizations, nongovernmental organizations and the private sector.

On February 2, 1998, the UN General Assembly adopted a resolution calling for International Cooperation against Corruption and Bribery in International Commercial Transactions. The resolution urged member states to implement the Declaration Against Corruption and Bribery in International Commercial Transactions and the International Code of Conduct for Public Officials, and to ratify, where appropriate, existing instruments against corruption.

The United Nations Commission on International Trade Law (UNCITRAL) is also providing valuable legal assistance to countries interested in improving their procurement laws and regulations and thus limiting the opportunities for bribery and corruption. In 1994, UNCITRAL approved a Model Law on Procurement of Goods, Construction, and Services, aimed at preventing bribery and corruption. A number of countries around the world have based their procurement laws or standards on provisions of the UNCITRAL Model Law. Many of the new democracies in Eastern European and Newly Independent States have benefited from UNCITRAL assistance. Albania and Poland, for example, have already enacted legislation based on the UNCITRAL model law.

World Trade Organization

Among the harmful consequences of bribery are ad-

verse effects on trade flows, sometimes even negating market access gained through trade negotiations. In many countries, corruption is affecting customs practices as well as decisions on government procurement contracts. Bribery and corruption can not only undermine the foundations of the international trading system, but also frustrate broader reforms and economic stabilization programs. That is why the World Trade Organization, with the support of the United States, has also been a forum for advancing anticorruption initiatives.

Working through the WTO, the United States and a limited number of other members negotiated an Agreement on Government Procurement (GPA) to reduce corruption in government procurement. The GPA, which went into effect on January 1, 1996, establishes substantive procedural disciplines to ensure transparency and due process in procurement decisions. Although the GPA contains important disciplines, it is a plurilateral agreement, with only twenty-six signatories: Aruba, Canada, member states of the European Union (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom), Hong Kong China, Israel, Japan, Liechtenstein, Norway, Republic of Korea, Singapore, Switzerland, and the United States. The Committee on Government Procurement is currently in the process of simplifying and improving the GPA pursuant to the mandate in Article XXIV(7)(b) of the agreement. One of the goals of the GPA revision is to make the agreement more accessible to nonparticipant WTO members.

The 1996 WTO Ministerial Conference in Singapore made an important contribution to international efforts to combat bribery and corruption by establishing a new Working Group on Transparency in Government Procurement. The working group was given a mandate to study transparency and to develop elements for inclusion in a WTO agreement. Over the past three years, the working group has made significant progress in fulfilling its mandate. The United States and several key trading partners have set a goal of having the working group complete its work on developing the elements of a multilateral agreement on transparency in government procurement before the upcoming WTO Ministerial Conference commences in Seattle on November 30, 1999.

The United States has taken the position that a WTO agreement on transparency in government procurement should address fundamental aspects of transparency, including

- Publication of information regarding the regulatory framework for procurement, including relevant laws, regulations and administrative guidelines.

- Publication of information regarding opportunities for participation in government procurement, including notices of future procurements.
- Utilization of competitive procurement procedures.
- Clear specification in tender documents of evaluation criteria for award of contracts.
- Availability to suppliers of information regarding contracts that have been awarded.
- Availability of mechanisms to challenge contract awards and other procurement decisions.

The WTO is also addressing issues related to individual trade transactions involving the movement of goods. In this context, corruption often has its genesis when the customs procedural environment of an importing country is neither transparent nor rules-based. In 1997, a WTO Working Party on Preshipment Inspection was established and completed its work in March 1999. It developed several immediate action items and other measures to be undertaken by members to strengthen the operation of the Agreement on Preshipment Inspection. The United States has also been leading an ongoing initiative towards full and timely implementation of the WTO Agreement on Customs Valuation by more than fifty WTO developing country members before the end of 2000. Proper implementation of the valuation agreement diminishes certain systemic problems that are often the starting point for corruption related to the assessment of duties and obtaining release of goods from the custody of customs officials.

In accordance with a mandate from the 1996 Ministerial Conference, the WTO Council on Trade in Goods has been undertaking exploratory and analytical work in the area of trade facilitation. In this context, the issue of customs integrity has been identified as a priority item. The United States, along with several of its key trading partners, is pressing other WTO members to include trade facilitation as a subject for future WTO work.

¹See BG-Temp. 126-102 "List of Participants and Composition of the Board of Governors, International Telecommunications Satellite Organization One Hundred Twenty-Sixth Meeting 12-18 March 1999."

²Alternatively, a decision may be taken on the affirmative vote of the total number of Board of Governors minus three.

³Attachment No. 2 to MS-29-6 "Parties to the Agreement and Signatories to the Operating Agreement With Total National Investment Share Determined As of 1 March 1999."

⁴See INTELSAT Annual Reports of 1995, 1996, and 1997.